

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARL D. WELLS,

Plaintiff,

-against-

JOHN/JANE DOE,

Defendants.

23-CV-1225 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff Carl D. Wells, who is barred from filing any new action IFP unless he is in imminent danger of serious physical injury, *see Wells v. NYC Health and Hosp. Corp.*, ECF 1:12-CV-5858, 54 (S.D.N.Y. June 20, 2013), brings this action *pro se*.¹ By order dated July 5, 2023, the Court directed Plaintiff, within 30 days of the date of that order, to either show cause that he is in imminent danger of serious physical injury or pay the \$402.00 in filing fees required to file an action in this court. Plaintiff filed a declaration (ECF No. 9) in response to that order, alleging that he is suffering from serious medical issues that require immediate medical treatment, but he had not paid the filing fees or submitted a completed IFP application and prisoner authorization.

By order dated July 20, 2023, the Court therefore directed Plaintiff, within thirty days, to submit a completed request to proceed *in forma pauperis* (“IFP”) and prisoner authorization or pay the \$402.00 in fees required to file a civil action in this court. That order specified that

¹ In 2021, Plaintiff filed a petition under 28 U.S.C. § 2254, seeking relief from his New York County conviction; his request for *habeas* relief was denied without prejudice to his filing a new petition after he has exhausted his state-court remedies. *See Wells v. Miller*, ECF 1:21-CV-11231, 82 (S.D.N.Y. Mar. 27, 2023). In that action before the Honorable Lewis J. Liman, Plaintiff submitted a letter dated October 8, 2022, raising claims regarding his medical treatment at Green Haven Correctional Facility. By order dated December 23, 2022, Judge Liman directed the Clerk of Court to open Plaintiff’s letter as a new civil action. ECF 1:21-CV-11231, 63. On February 14, 2023, the Clerk of Court opened Plaintiff’s letter as a new civil action and assigned docket number 23-CV-1225.

failure to comply would result in dismissal of the complaint. Plaintiff has not filed an IFP application and prisoner authorization or paid the fees. Accordingly, the complaint is dismissed without prejudice. *See* 28 U.S.C. §§ 1914, 1915.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to enter judgment in this case.

SO ORDERED.

Dated: September 12, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge